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**Grassland Reserve Program  
Conservation Easement**

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**This Conservation Easement Deed ("Deed")**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, between \_\_\_\_\_, and its successors, heirs, and assigns, (hereinafter "Grantor") and the **UNITED STATES OF AMERICA**, and its assigns, (hereinafter "Grantee" or "United States"). Grantor and the United States are jointly referred to as the "Parties." The acquiring agency of the United States is the Natural Resources Conservation Service ("NRCS"), of the United States Department of Agriculture.

**I. Recitals and Conservation Purposes**

A. Grantor owns the property (Property) located in \_\_\_\_\_ (County) of \_\_\_\_\_ (State) and legally described in Exhibit A attached hereto and made part of this Deed.

B. The grassland and other natural characteristics of the Property (also referred to herein as "conservation values") as well as its state of improvement, are described in a Baseline Inventory Report prepared by Grantee with the cooperation of Grantor and attached hereto at Exhibit B. The Baseline Inventory Report describes the condition of the Property as of the date of this Deed. The Report may be used by Grantee to assure that any future changes in the use of the Property are consistent with the terms of this Deed. However, this Report is not intended to preclude the use of other evidence to establish the condition of the Property at the time this Deed is executed.

C. Grantor intends that the grassland and other conservation values of the Property be preserved and maintained. To effectuate this conservation purpose, Grantor intends to convey to Grantee the right to restore and conserve the grassland and other conservation values of the Property.

D. Acquisition of this Deed is authorized by the Grassland Reserve Program (GRP) authorized by sections 1238N through 1238Q of Title XII of the Food Security Act of 1985, as amended. The easement rights in the above-described lands are being acquired for administration by the

Secretary of Agriculture through the Natural Resources Conservation Service of the United States Department of Agriculture for the purposes of restoring, enhancing, and protecting grassland acreage, including shrubland, rangeland, pastureland, and other lands, and for protecting related conservation values, including wildlife habitat and biodiversity.

**NOW THEREFORE**, in consideration of the sum of \_\_\_\_\_ Dollars(\$ \_\_\_\_\_), Grantor hereby grants and conveys with general warranty of title, to the United States and its assigns an easement in the Property, including development rights and access to the Property, as defined herein. It is the intent of Grantor to convey and relinquish all development rights to Grantee for the purpose of protecting the conservation values identified herein. This Deed shall constitute a servitude upon the Property so encumbered, shall run with the land and shall bind Grantor, its heirs, successors, assigns, lessees, and any other person claiming under them.

Subject, however, to any valid rights of record.

The term of this easement is perpetual [or \_\_\_\_years, expiring on \_\_\_\_20\_\_\_\_]

## **II. Purposes**

It is the primary purpose of this Deed to retain the Property in grassland by restoring and conserving native and desired non-native grasses, forbs, and shrubs, and the enhancement and protection of wildlife habitat, biodiversity, and other conservation values referenced in this Deed (collectively referred to as the “grassland and other conservation values”).

## **III. Permitted, Prohibited, Restricted and Reserved Activities**

**A. Grassland Uses of the Property.** Grantor is permitted to graze, hay, harvest for seed production, mow, construct fire breaks, conduct fire rehabilitation activities, and conduct common grazing practices, including maintenance and necessary cultural practices, consistent with the conservation purposes of this Deed. As used in this Deed, the term “common grazing practices” means those practices customary to the region where the Property is located related to livestock grazing, and includes forage management and necessary cultural practices such as the infrastructure required to conduct livestock grazing on the Property. Grantor shall not hay, mow or harvest for seed during certain nesting seasons for birds whose populations Grantee determines are in significant decline. Such determinations shall be made in writing to the Grantor, or set forth within the Conservation Plan on the Property (see paragraph IV. A.).

**B. Quiet Enjoyment.** In addition, Grantor reserves for itself and its invitees the right of quiet

use and enjoyment and the right to convey or lease the Property and restrict public access.

**C. Prohibited Acts.** Grantor shall not perform, nor knowingly allow others to perform, any act, including those prohibited or restricted herein, that is inconsistent with the purposes of this Deed.

**D. Crop Cultivation.** Except for grassland uses permitted in paragraph III. A., the cultivation or production of crops, non-perennial forages for human or domestic animal consumption, or seed production is prohibited.

**E. Non-Grassland Land Uses.** The establishment of tree or shrub nurseries, fruit or nut producing trees, vineyards, tree farms or plantations, aquaculture ponds, or any activity that breaks the surface of the soil, except as specifically permitted in this Deed, is prohibited.

**F. Incidental Lands.** Grantee may determine that the enrollment of certain incidental lands (including but not limited to ponds and woods) present on this Property at the time this Deed is executed and identified in the Baseline Inventory Report, may be necessary to facilitate the administration of the easement boundary. The Grantor may utilize and maintain such incidental lands in a manner that is compatible with the purposes of this Deed, as determined by Grantee.

**G. Topography.** Altering the existing topography of the Property by digging, plowing, disking, or otherwise disturbing the surface is prohibited, unless the Grantee determines such actions are necessary to restore and maintain the viability of grassland and other conservation values, or are otherwise specifically permitted by this Deed, and provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of grassland and other conservation values.

**H. Waste.** Dumping, collecting, recycling, or storing of trash, refuse, waste, sewage, or other debris is prohibited, except that animal waste may be applied on the Property as fertilizer as long as Grantee provides Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of the grassland and other conservation values.

**I. Mining.** The exploration, development, mining, or extraction of soil, sand, gravel, mineral, oil, gas, or any other hydrocarbon substance from the surface of the Property is prohibited. However, subsurface exploration and extraction of oil, gas, and minerals may be conducted utilizing techniques and methods that result in only a temporary disturbance to the surface of the soil, as determined by the Grantee, if Grantee also determines that such activities are consistent with conserving and maintaining the viability of grassland and other conservation values, and Grantee provides Grantor, in advance and in writing, approval subject to the terms and

conditions Grantee determines are necessary to ensure the protection of these conservation values, including, but not limited to, requiring that all structures are located beneath the soil surface and that any disturbed surface is restored promptly to grassland. Subsurface extraction of gas, oil, and minerals may be conducted by off-site methods (such as slant drilling) that do not impact the surface of the Property. Any extraction permitted pursuant to this paragraph shall be conducted in compliance with Federal, State and local regulations and permits.

**J. Construction of Buildings, Livestock Facilities or Other Structures.** The repair, maintenance, or replacement of existing corrals, livestock holding pens, windmills, barns, or other minor structures, as identified in the Baseline Inventory Report, necessary to conduct common grazing practices on the Property, are permitted at the same location and within the existing footprint of such structures. Construction of new buildings, livestock facilities, or other structures necessary to conduct common grazing practices on the Property may be permitted on the Property, if the Grantee determines that such activities are consistent with maintaining the viability of the grassland and other conservation values, and provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of these conservation values.

**K. Watering Facilities.** Grantor may maintain existing watering facilities (i.e. water tanks, troughs, and dugout ponds) for livestock or wildlife in their current location as identified in the Baseline Inventory Report. Grantor may construct or place on the Property new watering facilities for livestock and wildlife if Grantee determines that such facilities are consistent with maintaining the viability of grassland and other conservation values, and Grantee provides the Grantor, in advance and in writing, approval subject to the terms and conditions Grantee determines are necessary to ensure the protection of these conservation values.

**L. Fences.** Existing fences may be repaired or replaced and new fences may be built on the Property for the purposes of managing livestock in a manner that is customary in the region where the Property is located and consistent with the purposes of this Deed set forth at Part II.

**M. Roads and Impervious Surfaces.** No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, nor shall any road for access or other purposes be constructed. However, new roads necessary to conduct common grazing practices as permitted herein on the Property may be constructed with prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to maintain the viability of the grassland and other conservation values. Existing roads may be maintained and repaired in their current condition and within their existing footprint as identified in the Baseline Inventory Report. Maintenance and repair of existing roads shall not be construed to permit the paving of any existing road not already paved or otherwise covered in an

impervious material.

**N. Timber Harvesting.** Trees may be cut to control insects and disease, prevent personal injury and property damage, obtain firewood for personal use, and construct fences as permitted herein, with prior written approval of Grantee. Any commercial harvesting shall be conducted in accordance with a forest management plan as set forth in paragraph IV. C. herein.

**O. Recreational Uses.** Undeveloped, passive, recreational uses, such as hiking, camping, bird watching, hunting, and fishing are permitted as long as such uses, as determined by Grantee, do not impair the grassland and other conservation values.

**P. Motorized Vehicle Use.** Motorized vehicle use on the Property is prohibited, except as necessary to carry out uses permitted herein on the Property. Off-road vehicle courses for snowmobiles, all-terrain vehicles, motorcycles, or other motorized vehicles are prohibited.

**Q. Development Rights.** The Property shall not be developed except as expressly permitted by this Deed. Subject to valid existing rights of record, all development rights associated with the Property are vested in Grantee. The Parties agree that these development rights are terminated and extinguished and may not be used on or transferred off of the Property to any other property or otherwise used.

**R. Signs.** Except for no trespassing signs, for sale signs, and signs identifying the owner of the Property, all other signs, advertisements, and billboards of any nature are prohibited. The permitted signs may not exceed 15 square feet in size. The Parties agree that the United States has the right to erect and maintain signs on the Property for the purpose of identifying this easement.

**S. Exotic Species.** The introduction, cultivation, or use of exotic plant or animal species is prohibited on the Property without prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to ensure the protection of the grassland resources and other conservation values referenced in this Deed.

**T. Subdivision.** The Property may be subdivided with prior written approval by Grantee. The terms of this Deed shall apply to any subdivided parcels.

**U. Utilities.** The installation or relocation of new public or private utilities, including electric, telephone, or other communications services over the Property, is prohibited. Existing utilities on the Property may be maintained, repaired, removed, or replaced at their current location as identified in the Baseline Inventory Report. The installation, repair, and maintenance of underground utilities such as electric, gas, water, sewer lines, or other utilities may be permitted

on the Property if Grantee determines that such activities will result in only a temporary disturbance to the surface of the soil, are consistent with conserving and maintaining the grassland and other conservation values, and provides the Grantor, in advance and in writing, approval subject to terms and conditions Grantee determines are necessary to ensure the viability of the grassland and other conservation values. The construction of wind and solar energy generation facilities are prohibited, except when their primary use is necessary for conducting common grazing practices on the Property, such as providing energy necessary for feeding, watering, and care of livestock, and the Grantee provides Grantor, in advance and in writing, approval subject to terms and conditions Grantee determines to ensure the protection of these conservation values.

**V. Water Rights.** Grantor shall retain the right to use the water rights described in Exhibit A for the present and future use on the Property, as well as all wells, ditches, canals, headgates, springs, reservoirs, water allotments, and water rights of ways associated with the Property and identified in the Baseline Inventory Report. With the prior written approval of Grantee, Grantor may transfer, lease, sell, or otherwise separate a portion of those water rights from the Property that the Grantee determines are not necessary to ensure the function of the grazing operation and the protection of the grassland and other conservation values.

**W. Restoration.** In furthering the conservation purposes of this Deed, Grantor may restore grasses, forbs, and shrubs on the Property if approved in advance and in writing by Grantee. In addition, Grantee shall have the right to enter the Property to undertake, at its own expense or on a cost-share basis with Grantor or other entity, activities to restore, protect, manage, maintain, enhance, and monitor the grassland and other conservation values.

#### **IV. Affirmative Duties: Planning Requirements**

**A. Conservation Plan.** The Parties agree that good resource management and land stewardship is important for present and future generations, for the protection and enhancement of grasses and other native and desirable, non-native vegetation on the Property, and in furtherance of its conservation values. The Grantor agrees to implement a Conservation Plan on the Property developed and approved by the Grantor and NRCS, which describes the practices, measures, and other conditions necessary for restoring and maintaining the viability of grassland and other conservation values. Subsequent to recording of this Deed, the Conservation Plan will be revised when necessary, as determined by NRCS or the Grantor, to reflect any changes in the use of the Property that affect the viability of the grassland or other conservation values. The revised Conservation Plan shall be developed and approved by the Grantor and NRCS. The Conservation Plan shall not include any provisions inconsistent with the purposes of this Deed.

**B. Pest and Weed Control.** Grantor is responsible for control of noxious weeds and pests

according to Federal and State law.

**C. Forest Management Plan.** Commercial harvesting shall be conducted in accordance with a forest management plan prepared by a licensed, professional forester, which is approved in advance and in writing by Grantee, and which does not impair the grassland and other conservation values, including the protection of animal and plant diversity. A copy of this plan shall be provided to and approved by Grantee at least one month prior to any timber harvest.

## **V. Enforcement and Transfer**

### **A. Enforcement.**

1. Grantee has the right to prevent, correct, or require correction of violations of the terms of this Deed. Upon notification to the Grantor, Grantee or Grantee's agents may enter the Property to inspect for violations, including, but not limited to, assessing compliance with the Conservation Plan or other plan described in Section IV above. However, notification by Grantee prior to entry is not required when the Grantee believes there may be a violation of the terms of this Deed. If Grantee finds a violation, Grantee may at its discretion take appropriate legal action in law or equity. Upon discovery of a violation, Grantee shall notify Grantor in writing of the violation. Except when an ongoing or imminent violation could, as determined by Grantee, seriously impair the conservation values of the Property, Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing any legal action.
2. If Grantor fails to cure the violation within 30 days after receipt of a notice of violation, Grantee may bring an action in court to enforce the terms of this Deed, to enjoin the violation, and to require restoration of the Property to the condition that existed prior to any such injury. Where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in halting and correcting the violation, including but not limited to reasonable attorneys' fees.
3. Any delay by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor shall not be deemed a waiver by Grantee of such rights with respect to that violation. Moreover, any failure by Grantee to discover a violation of this Deed, or forbearance by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor, shall not be deemed a waiver by Grantee of such rights with respect to any subsequent violation.

**B. Transfer of Easement Ownership.** Upon prior written consent from the Grantor, the

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Secretary of the United States Department of Agriculture (“Secretary”) may transfer this easement to an Easement Holder, subject to the right to inspect the Property periodically and the terms set forth below. The Easement Holder must be a State agency, or private conservation or land trust organization which, at the time of transfer, is a qualified organization under 16 U.S.C. 3838q that the Secretary determines has the appropriate authority, expertise, and resources necessary to assume title ownership to this easement. This easement shall survive any merger of the fee and easement interests in the Property.

1. In the event that the Easement Holder fails to enforce the terms of this easement, as determined in the discretion of the Secretary, the Secretary, his or her successors and assigns, shall have the right to enforce the terms of this easement through any and all authorities available under Federal or State law or, at the option of the Secretary, to have all right, title, or interest in this easement revert to the United States of America. Further, in the event the Easement Holder dissolves or attempts to terminate this easement, then all right, title, and interest shall revert to the United States of America.
2. The Easement Holder may only transfer this easement to another qualified public or private entity as provided for under 16 U.S.C. 3838q(c)(1)-(4) as that statute reads on the day that this Deed is executed, and the Grantor consents to the transfer.
3. Should this easement be transferred pursuant to this provision, all warranties and indemnifications provided for in this Deed shall continue to apply to the United States. Subsequent to the transfer of this easement, the Easement Holder shall be responsible for conservation planning and implementation, and will adhere to the NRCS Field Office Technical Guide for maintaining the viability of grassland and other conservation values.
4. Due to the Federal interest in this Deed, this Deed cannot be subject to condemnation without the permission of the United States.

## **VI. General Terms**

**A. Access.** No public access is conveyed by this Deed. Grantor maintains the right and obligation to prevent trespass and control access by the public pursuant to Federal and State law, provided that Grantee has the right of ingress and egress to the Property over Grantor's property, whether or not Grantor's property is adjacent to or appurtenant to the Property, for the exercise of Grantee's rights under this Deed. The authorized representatives of Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.



**B. Responsibilities of Grantor and Grantee Not Affected.** Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way affect any existing obligations of Grantor as the owner of the Property. For example:

1. **Taxes.** Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property.
2. **Upkeep and Maintenance.** Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property.

**C. Rights Acquired.** The property rights of the United States acquired under this Deed shall be unaffected by any subsequent amendments to or repeal of the Grassland Reserve Program. If Grantor receives consideration for this easement in installments, the Parties agree that the conveyance of this easement shall be effective upon payment of the first installment.

**D. Subsequent Conveyances.** Grantor agrees to notify Grantee in writing of the names and addresses of any party to whom the Property is to be transferred at or prior to the time the transfer is consummated. Grantor and its successors and assigns shall specifically refer to this Deed in any subsequent lease, deed, or other instrument by which any interest in the Property is conveyed.

**E. Subsequent Liens.** No provisions of this Deed should be construed as impairing the ability of Grantor to use this Property as collateral for a loan, provided that any mortgage or lien associated with the loan is subject to or subordinated to this Deed.

**F. Severability.** If any provision of this Deed is found to be invalid, the remainder of its provisions shall remain in force.

**G. Rules of Construction.** This Deed shall be interpreted under the laws of the United States. Any ambiguities in this Deed and questions as to the validity of any of its specific provisions shall be resolved in favor of Grantee so as to preserve the conservation values of the Property and to give maximum effect to the purposes of this Deed.

**H. Environmental Warranty.** “Environmental Law” or “Environmental Laws” means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or

at any time hereafter be in effect.

**“Hazardous Materials”** means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to defend and indemnify Grantee against all litigation, claims, demands, penalties, and damages, including reasonable attorneys’ fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath, or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor’s indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Material contributed after this date to the Property by Grantee.

**I. General Indemnification.** Grantor shall indemnify and hold harmless Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which Grantee may be subject or incur relating to the Property, which may arise from, but is not limited to, Grantor’s negligent acts or omissions or Grantor’s breach of any representation, warranty, covenant, agreements contained in this Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

**J. Notices.** Any notices required by this Deed shall be in writing and personally delivered or sent by certified mail, return receipt requested, to Grantor and Grantee.

**K. No Merger.** If Grantee at some future time acquires the underlying fee title in the Property, the interest conveyed by this Deed will not merge with fee title but will continue to exist and be managed as a separate estate.

**L. Acceptance.** The signature below of Grantee's authorized representative constitutes acceptance of the rights and responsibilities conveyed by this Deed to the United States.

**M. Captions.** The captions used in this Deed have been inserted solely for convenience of reference. They are not part of this Deed and shall have no effect upon its interpretation.

**N. Rights and Obligations.** All provisions of this Deed apply to Grantor or Grantee and their respective agents, heirs, executors, administrators, assigns, and any other successors.

**TO HAVE AND TO HOLD**, this Conservation Easement Deed is granted to the United States of America and assigns. Grantor covenants that it is vested with good title to the Property and shall warrant and defend the same on behalf of the United States against all claims and demands. Grantor covenants to comply with the terms and conditions enumerated in this Deed governing use of the Property, and adjacent lands owned by the Grantor used for access to the Property, and to refrain from any activity that is restricted, prohibited, or inconsistent with the purposes of this Conservation Easement Deed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Landowner(s) \_\_\_\_\_  
\_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

I \_\_\_\_\_, being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Conservation Easement Deed with respect to the rights and duties of the United States.

#### **Acknowledgment**

In the State or Commonwealth of \_\_\_\_\_, County, Borough or Parish of \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said jurisdiction, personally appeared

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\_\_\_\_\_ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

**IN TESTIMONY WHEREOF**, I have hereunto my hand and Notarial Seal subscribed and affixed in said jurisdiction, the day and year above written.

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires:

This instrument was drafted by the Natural Resources Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250-1400.

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